HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE G.BHAVANI PRASAD

WRIT PETITION No.27178 of 2006

Date: 26-03-2007.

Between :

M/s.Jyothi Dairy Pvt. Ltd., Hyderabad,
rep. by its Managing Director.

.....Petitioner

And

The Commercial Tax Officer, Jeedimetla Circle,
Ranga Reddy District & another.

.....Respondents.

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AND
HON'BLE SRI JUSTICE G.BHAVANI PRASAD

WRIT PETITION No.27178 of 2006

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties. A detailed counter has been filed.

The case of the petitioner is that the impugned order was passed by the Deputy Commissioner of Commercial Taxes in a revisional proceedings. It is not disputed that the issue before the revisional authority was same, which was under consideration before the Tribunal in the petitioner's case being Appeal No.163 of 2004. The case of the petitioner is that in terms of Section 20(2A) of the A.P.General Sales Tax Act, 1957 (hereinafter referred to as 'the Act'), any authority seeking to revise an order, has to stay the proceedings if the issues raised in the revision are same which are pending before the Tribunal, High Court or the Supreme Court.

This aspect of the matter was considered by a Full Bench of this Court in **Indo National Limited v.**

Commissioner of Commercial Taxes[1] and a Division Bench of this Court in **Vensa Biotek Limited v. Commissioner of Commercial Taxes, Hyderabad**[2], following the Full Bench judgment in **Indo National Ltd** case (1 supra), held,

> *"Going by this judgment and also the judgment of the Full Bench of the High Court, we are of the view that when a matter is pending before the Sales Tax Tribunal and a revision is initiated by authority under the Act and if a request is made by the assessee to stay the revision till disposal of the appeal, in view of mandate of section 20(2-A), the stay should invariably be granted and the period spent in the litigation before the Tribunal should not be counted for the purpose of limitation under section 20(3) if the Revenue decides to initiate revision after Tribunal decides the matter."*

In view of the judgment of the Full Bench and the Division Bench, we allow the writ petition, set aside the impugned order and restore the matter on the file of the revisional authority i.e. the Deputy Commissioner of Commercial Taxes. The matter shall remain pending till the Tribunal decides Appeal No.163 of 2004.

BILAL NAZKI, J

26th March 2007.

G.BHAVANI PRASAD, J

ajr

[1] 136 STC 586

[2] [2007] 5 VST 388